

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TROY BACKUS,
Plaintiff,

v.

GENERAL MILLS, INC., et al.,
Defendants.

Case No. [15-cv-01964-WHO](#)

**ORDER REGARDING MOTION TO
DISMISS**

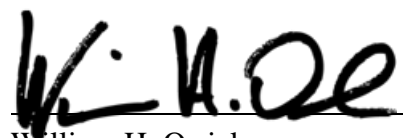
Re: Dkt. No. 49

This case has been stayed since August 18, 2015. Dkt. No. 33. I partially lifted the stay on March 12, 2018, to allow defendants General Mills, Inc. and General Mills Sales, Inc. (collectively “General Mills”) to move to dismiss plaintiff Troy Backus’s claims (that General Mills’s use of partially hydrogenated oil in their baking mix products violates the California Unfair Competition Law under both the unlawful and unfair prong) because Section 754 of the Consolidated Appropriations Act preempts this lawsuit. Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, § 754, 129 Stat 2242, 2284 (2015). Dkt. No. 49.

During the hearing on May 16, 2018, the parties represented that a pending appeal in *Hawkins v. Kroger Co.*, No. 16-55532 (9th Cir. argued Dec. 7, 2017), will likely decide the preemption issues raised in this action. Having reviewed the supplemental briefing submitted in *Hawkins*, I agree. I will defer ruling on the motion to dismiss until the Ninth Circuit rules. The stay remains in effect. The parties shall notify me within seven days of the Ninth Circuit’s decision in *Hawkins*.

IT IS SO ORDERED.

Dated: June 13, 2018



William H. Orrick
United States District Judge